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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/087,568	03/01/2002	Peter W. Walczak	1649/97A	5127

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EXAMINER	
FUNK, STEPHEN R	

ART UNIT	PAPER NUMBER
2854	

DATE MAILED: 01/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/087,568	WALCZAK ET AL.	
	Examiner	Art Unit	
	Stephen R Funk	2854	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on *20 October 2003*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-14* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-14* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

13)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

a) ☐ The translation of the foreign language provisional application has been received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

The decision by the Board of Appeals and Patent Interferences in Paper No. 18 of parent application Serial No. 08/844,350 has requested the examiner to ask, and the applicant to answer, how a conventional newspaper page is oriented about a plate cylinder. Applicant has not responded to this request.

As stated in the Reasons for Allowance in the parent application the mere orientation of the width of the pages axially along the cylinder and the height of a page circumferentially about the cylinder is not considered to be novel or unobvious. In fact, it would appear to be the norm. Note column 3 lines 22 - 27 of Fadner ('320), column 1 lines 5 - 6 and column 2 lines 24 - 35 of Fukuda et al. ('830), column 1 lines 35 - 42 and column 2 lines 56 - 58 of Michalik et al., column 1 lines 8 - 13 of Schroder et al. ('290), column 1 lines 8 - 10 of Braun ('196), the sentence bridging columns 1 and 2 of McDonald et al. ('486), and the teachings of Smith ('992) below.

Applicant's recited length to diameter ratio of 5.8:1 to 9:1 equates to a printing page having a height to width ratio of 2.1:1 to 1.4:1. The above dimensions are computed by dividing the height of the page (circumference of cylinder = diameter "1" x 3.14 = 3.14) by the width of the page (width of page = length of cylinder ("5.8" or" 9") /4 = 1.45 to 2.25). In effect, applicant is claiming a newspaper printing press capable of printing a page having the above height to width ratio wherein the plate cylinder has four plates across and one plate around. Converting to inches, to allow easier perception of the size of a newspaper page, applicant's disclosed range encompasses a newspaper page having a height between 18.5 and 25.6 inches and a width between 11.8 and 16.7 inches. The Washington Post, for example, has a page height of 21.25 inches and a width of 12.5 inches. This equates to a page height to width ratio of 1.7, well within the range of 1.4:1 to 2.1:1. Converting back to cylinder length to diameter ratio would result in a

ratio of 7.4, well within the recited range of 5.8:1 to 9:1. It is well noted that these ratios fall almost exactly in the middle of the claimed range.

In fact, many well known newspapers fall within this range. If applicant believes otherwise, then evidence should be submitted that the above height to width ratio is not conventional. Likewise, applicant should submit evidence that it is not known to orient the height of a newspaper page circumferentially around the plate cylinder and the width of a newspaper page axially along the plate cylinder.

Applicant is advised that should claims 9 and 10 be found allowable, claims 13 and 14 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 2, 5, 6, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (US 3,992,992) in view of Harenza (US 3,335,663) and Guaraldi et al. (US 5,241,905).

Smith teaches the conventionality of a plate cylinder being four pages wide and having four plates across wherein each plate is the size of a page. See the sentence bridging columns 1 and 2, column 2 lines 11 - 17, and column 3 lines 39 - 56 of Smith. Note that the teaching in column 2 lines 11 - 17 of the plate cylinder carrying four axially adjacent printing plates implies

only one plate around. More importantly note column 2 lines 52 - 56 which states that the baffles, arranged lengthwise along the plate cylinder (10), may be employed per each column width. Since columns of a newspaper extend across the page width it is apparent that the page must be oriented such that the width of the page extends across the length of the plate cylinder. The recited range of cylinder length to diameter ratio results in a conventionally sized newspaper page. Note the comments above.

If the teaching of Smith is not sufficient to establish only one plate around, Harenza teaches the conventionality of a plate cylinder having four plates across and one plate around. See column 1 lines 14 - 20, column 2 lines 34 - 38, and column 6 line 54 through column 7 line 4 of Harenza.

Guaraldi et al. teach the housing, sidewalls (22), first and second plate cylinders (14, 18) each having a plate lock-up mechanism (32, 40), and first and second blanket cylinders (16, 20) each having an axially removable continuous blanket (34, 36). See column 2 line 34 - column 4 line 13 and Figures 1 and 6 of Guaraldi et al, for example.

It would have been obvious to one of ordinary skill in the art to utilize the plate cylinder of Smith, as modified by Harenza, in the press of Guaraldi et al. to achieve the well known benefits of blanket sleeves such as reducing vibrations in the press, providing near continuous printing, and allowing the blankets to be easily replaced. With respect to claims 5 and 6 the recited dimensions would have been obvious to one of ordinary skill in the art through routine experimentation. It would appear that these dimension would equate to an ordinary sized newspaper page.

Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith in view of Harenza and Guaraldi et al. as applied to the claims above, and further in view of Schneider et al. (EP 644,048). Schneider et al. teach the conventionality of each printing couple having a separate motor (5). See Figure 1 of Schneider et al., for example. It would have been obvious to one of ordinary skill in the art to provide the press of Smith, as modified by Harenza and Guaraldi et al., with separate printing couple motors in view of Schneider et al. to eliminate longitudinal shaft torsion. With respect to claim 4 see column 1 lines 55 - 59 of Harenza.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smith in view of Harenza and Guaraldi et al. as applied to claims 1, 2, 5, 6, and 11 above, and further in view of Okamura et al. (US 5,152,222). Okamura et al. teach the conventionality of four printing units mounted vertically. It would have been obvious to one of ordinary skill in the art to provide the press of Smith, as modified by Harenza and Guaraldi et al., with four printing units mounted vertically in view of Okamura et al. to achieve a more compact design.

Claims 8 - 10, 13, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith in view of Harenza, Guaraldi et al., and Okamura et al. as applied to claim 7 above, and further in view of Horiguchi et al. (US 5,617,788). Horiguchi et al. teach the conventionality of a fifth printing unit (11 or 12) wherein the fifth unit may print spot colors (e.g. gold, silver) different from the colors of the four units or operated in alternation with another printing unit. See the entire document of Horiguchi et al., in particular, column 5 lines 60 - 61, column 7 lines 10 - 16, the paragraph bridging columns 6 and 7, column 11 lines 35 - 45, and column 12 lines 26 - 32. Although claims 10 and 14 do not structurally differentiate from that of Horiguchi et al. it is apparent that the fifth printing unit prints the same color since only the text of the plate on

the fifth unit is being changed, and not adding or eliminating a color. It would have been obvious to one of ordinary skill in the art to provide the press of Smith, as modified by Harenza, Guaraldi et al., and Okamura et al., with a fifth printing unit in view of Horiguchi et al. so as to print another color or alternate printing units for a flying plate change.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smith in view of Harenza and Guaraldi et al. as applied to claims 1, 2, 5, 6, and 11 above, and further in view of applicant's admission of prior art. Applicant discloses on page 4 lines 17 - 20 that the pinless folding apparatus is known. It would have been obvious to one of ordinary skill in the art to provide the press of Smith, as modified by Harenza and Guaraldi et al., with a known pinless folding apparatus as disclosed by applicant so as to fold the printed web.

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1 - 14 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 - 12 of U.S. Patent No. 6,374,731. Although the conflicting claims are not identical, they are not patentably distinct from each other because the overlap in the recited ranges render the claims obvious.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. With respect to applicant's request under 37 C.F.R. § 1.104(d)(2) of published information teaching the known desirability of tubular blankets for reducing vibrations in press and providing near continuous printing see column 1 line 14 - column 2 line 15 and column 2 line 53 - column 3 line 17 of Vrotacoe et al. (US 5,304,267).

Applicant's arguments filed October 20, 2003 have been fully considered but they are not persuasive. Applicant's argument that Smith does not teach a page sized printing plate is not convincing in view of the explicit teaching by Smith of providing a "page size printing plate". Applicant's interpretation that this phrase only refers to the width of the printing plate is speculative and contrary to the plain meaning of the phrase. Furthermore, it is apparent from the teachings of Smith (each baffle corresponding to each column, column 3 lines 48 - 56) that the height of the newspaper page must be oriented around the circumferential surface of the plate cylinder. Applicant's arguments concerning magazine or brochure production are not germane to newspaper publication. Thus, Smith discloses a plate cylinder having an axial length substantially four times the width of a newspaper page and a circumference substantially equal to

the height of a newspaper page. Applicant's argument that both Smith and Harenza teach 2:1 printing presses is also speculative and not warranted from the teachings of Smith and Harenza. Accordingly, there is no unobviousness in utilizing a conventional 1:1 printing press as disclosed by Guaraldi et al. (The above cited reference to Vrotacoe et al. is evidence that it was known in the art at the time this invention was made that tubular printing blankets were highly desirable in printing presses for reducing vibrations and providing near continuous printing.) Figures 3 - 8 and the accompanying discussion in Guaraldi et al. teach how a tubular printing blanket can easily be removed and installed. Lastly, applicant argues that Harenza does not teach a plate cylinder having a circumferential register adjustment mechanism. As broadly recited, the plate cylinder of Harenza has an adjustment mechanism (i.e. the plate lock-ups) that allows circumferential register adjustment. See column 1 lines 55 - 59 of Harenza. The claim does not preclude this part of the plate cylinder allowing the circumferential registration.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

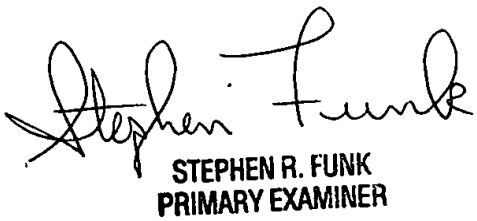
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen R. Funk whose telephone number is (703) 308-0982. The examiner can normally be reached M - F, except Wednesdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew Hirshfeld, can be reached at (703) 305-6619.

The fax phone number for ALL official papers is (703) 872-9306. Upon consulting with the examiner *unofficial* papers only may be faxed directly to the examiner at (703) 746-4393.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



STEPHEN R. FUNK
PRIMARY EXAMINER

SRF
January 15, 2004